



M I N U T E S

OF THE

P R O C E E D I N G S

OF THE

C O U R T M A R T I A L

ON THE

T R I A L

OF

A D M I R A L *BYNG.*



(Price One Shilling.)

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1914

MINUTES
OF THE
PROCEEDINGS
OF THE
COURT MARTIAL
ON THE
TRIAL
OF
ADMIRAL BYNG,

Held on Board his Majesty's Ship *St. George*, in
Portsmouth Harbour; begun *December 27*,
1756, and continued till *January 27*, 1757.

CONTAINING,

A Summary of the Evidence as delivered each Day in
Court, methodically digested, and the Proofs and
Arguments as well for as against him, fairly and im-
partially stated.

To which is added,

An Explanation of the Signals made by the Commander
in Chief in an Engagement. Likewise the two Letters of
M. VOLTAIRE, and Marshal D. RIGHLIEU, to Mr.
BYNG.

With general OBSERVATIONS on the whole.

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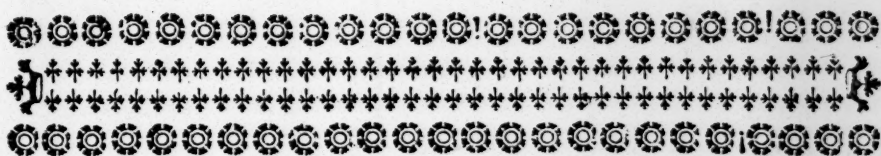
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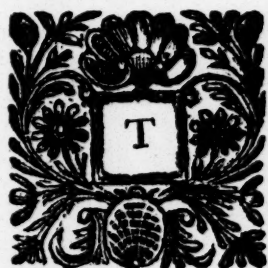
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M I N U T E S
O F T H E
P R O C E E D I N G S
A G A I N S T
A D M I R A L B Y N G.



H E Summer of the Year 1756, will be ever memorable for the Losses and Disgraces we suffered in the *Mediterranean*. The Loss of *Minorca* without the least Attempt for its Relief, and the Loss of a Victory after it was more than half gained, are Facts too notorious to be denied ; the fatal Consequences of which are sensibly felt as well in the Disreputation brought on the *British* Arms, as in the vast Detriment to our Commerce in that Part of the World. But to whom these Misfortunes and Miscarriages ought to be imputed, is the great Question which for these six Months past, has been the general Topic of Conversation, and raised such a Spirit throughout the Kingdom, as evidently shewed how dearly the Glory of their King and Country is prized by all *True Britons*. Some have laid the Blame on the Ministry, in delaying too
A long

long the sending Succours for the Relief of so important a Place, and the Incompetency of those Succours, when sent, for accomplishing a Business in which the Interest of the Nation in general was so nearly concerned. Others again were no less warm in their Censures of Admiral *Byng*, and impute the whole Miscarriage to his Neglect, Cowardice, or Misconduct. And as the Admiral was the immediate Instrument employed in this great Affair, the general Voice was loud in demanding Justice upon him, as if to his Mismanagement alone this irreparable Misfortune ought to be attributed. And the Letter which he wrote to the Admiralty, giving an Account of his Engagement with the *French Fleet*, as inserted in the *Gazette*, instead of allaying the Clamour, served only to increase the general Indignation of the Public against him. The Admiral, however, to vindicate his own Conduct, and to stop the Torrent of Calumny, which came pouring upon him from every Quarter, thought proper to publish some Pamphlets, wherein he affirms that the Letter published in the *Gazette*, as coming from him, was so altered, mutilated and curtailed, by those who conveyed it to the Press, that a quite different Turn was given to his true Sense and Meaning, with a Design, as he supposes, to bring upon him the Resentment of his King and Country, and the general Odium for the Loss of *Minorca*; which, he says, ought rather to be attributed to those who had the Direction of the Expedition, than to him who was only employed as an Instrument in the Execution of it. But whether the Admiral was deficient

cient in his Duty or not, yet I think, to speak impartially, his Letter ought to have been given to the Publick in his own identical Words, for which only he could be answerable, and the doing otherwise, was certainly inconsistent with that Honour and Justice which is due to an Officer of such Distinction, whether guilty or innocent of the Crime laid to his Charge, since, at that Time, it was the only authentic Information the Publick could have of such an important Transaction, of which he was the sole Manager.

Upon Receipt of the Admiral's Letter, and other Advices from the *Mediterranean*, that the Garrison at Fort *St. Philip's* had not been relieved, and was in the utmost Danger of falling into the Hands of the Enemy, the Government thought fit to send out another Squadron, under the Command of Sir *Edward Hawke*, with a Commission to examine into the Conduct and Behaviour of the Admirals and Officers, and to enquire into the Causes of the ill Success of that Expedition. Sir *Edward*, pursuant to his Instructions, when he came to *Gibraltar*, and had got what Intelligence he could by Enquiry, delivered to Admiral *Byng*, the Order for his Suspension, and sent him home Prisoner in the *Antelope*.

On the Admiral's Arrival at *Portsmouth*, an Order was sent to Admiral *Osborn* to put him under Arrest, and for his Removal to *London*; but he was not got far on his Way, before his Guard were met by a Messenger from the Admiralty, with an Order to convey him back again to the Ship. In a few Days after, a strong Detachment of the

Guards brought him away, and lodged him in the House of the Governor of *Greenwich* Hospital, where he was strictly confined, under a strong Guard, till the Time of his Trial.

As soon as the Admiral was made acquainted with the Nature of the Charge against him, as contained in the Warrant of the Lords of the Admiralty to their Marshal, he writes to Mr. *Cleveland*, their Lordship's Secretary, desiring the Liberty of sending for such a Number of Witnesses as he judged necessary for his Defence, and gave a List of Thirty-seven, with their Names; which their Lordships complied with. This Letter was dated *August* 4, and he was further told by the Secretary, that they would be sent for Home in the *Colchester*. The Admiral, however, about a Month afterwards, *September* 6, desires, in a Letter to the Secretary, Permission of their Lordships, to send for another Set of Witnesses from the Fleet, to the Number of Thirty-one. But their Lordships considering how detrimental to the publick Service, the Absence of such a Number of Officers from their Duty might be, and imagining that Mr. *Byng*'s Design was only to gain Time and delay his Trial, did not think fit to comply with his Request; and acquainted him, that as soon as the Witnesses already sent for should come over, they intended to bring on his Trial, which they saw no Reason to postpone any longer.

The Witnesses being all arrived and in Readiness, the Trial was appointed to come on on *Monday, December* 27, on Board the *St. George*, lying in *Portsmouth* Harbour.

December

December 23, the Admiral arrived at *Portsmouth* in a Coach and Six, guarded by a Party of fifty Horse, and went directly to Mr. *Hutchins's*, Boat-swain of the Dock-yard, where a Marine Guard mounted every Day.

Monday, December 27. A Jack in the Mizzen Shrouds was hoisted on Board the *St. George* as a Signal for a Court Martial; about nine a Gun fired for all Captains in the Harbour to come on Board; the Commission was read, and the Members of the Court were sworn; which was all that was done this Day; and then adjourn'd till next Morning nine o'Clock. The Court consisted of the following Members, *viz.*

A D M I R A L S.

P R E S I D E N T,

Thomas Smith, Esq; Vice Admiral of the Red,
Thomas Holbourne, Esq; Rear Admiral of the Red.
Harry Norris, Esq; Rear Admiral of the White.
Thomas Broderick, Esq; Rear Admiral of the Blue.

Charles Holmes,

William Boys,

John Simcoe,

John Bentley,

Peter Denis,

Captains.

Francis Geary,

John Moore,

James Douglas,

Hon. Augustus Keppel.

Five Hours were appointed for their sitting each Day; but none of them allowed to go ashore till the Trial should be finished; but Mr. *Byng* and his Witnesses might come ashore every Night, if they thought fit. The Court was order'd to be open, and free Admittance given to every Body who had the Curiosity to hear the Trial, which occasion'd a numerous Concourse of People on Board every Day.

All Things being in Order, and the Witnesses ready, the Charge was open'd, which was to this Effect,

“ T H A T

“ T H A T he, *John Byng*, Esq; Admiral
 “ of the *Blue Squadron* of his Majesty's Fleet in
 “ the *Mediterranean*, during the Engagement of
 “ his Majesty's said Fleet, and the Fleet of the
 “ *French King*, on the 20th of *May* last, did
 “ withdraw, or keep back, and did not do his
 “ utmost to take, seize and destroy the Ships of
 “ the *French King*, which it was his Duty to have
 “ engaged, and to assist such of his Majesty's
 “ Ships as were engaged in Fight with the *French*
 “ Ships, which it was his Duty to have assisted ;
 “ and for that he the said *John Byng* did not do
 “ his utmost to relieve *St. Philip's Castle*, in his
 “ Majesty's Island of *Minorca*, then besieged by
 “ the Forces of the *French King* ; but acted con-
 “ trary to, and in Breach of his Instructions given
 “ the Lords of the Admiralty, by his Majesty's
 “ Command.”

Wednesday, 20. The first Witness sworn was Ad-
 miral *West*, who deposed to the Effect following :

Being ask'd, whether he had ever delivered his
 Opinion, answered: This Question appears to me
 of an extraordinary Nature, I cannot conceive
 that, as a Witness, I am at all called upon to
 know at what I expressed Dissatisfaction. It is
 not a Matter of Fact as to my particular Opinion:
 There might be Appearances at which I might
 express Dissatisfaction, and they not Facts. When
 I saw the Rear of our Fleet a-stern, I could not
 but be dissatisfied with that Appearance. I saw
 the Fleet in that Situation, but cannot tell the
 Reason: Therefore my Opinion, that I may
 have given, may be founded upon what was not
 really

really Fact, tho' it appeared to me to be so. As to the other Ships, I know nothing of their Situation. I went down and engaged my proper Ship till she bore away; after that I went and engaged a-head with the *Lancaster*; then the Rear came up, and engaged them as long as they staid. I have given in all these Particulars; and if the Court desires to know my Opinion without Facts, it was what I did not expect. I desire to give every Light into this Matter that may inform the Court, but the Court may be misled by my Opinion, without Facts. Where a Judgment is drawn from Evidence, it is drawn from Evidence of Facts. I may have conceived a wrong Opinion, either from its not being well founded on Facts, or from my making a wrong Judgment of those that did appear. I only mean to say, that this is a Question, my Answer to which may mislead, because it may be founded on Appearances; there was an Appearance from the Fleet's being so far a-stern; there was an Appearance of some Want in somebody, but with whom I cannot pretend to say.

His Examination lasted till near Five in the Evening. When the Court was adjourning, he begged they would complete his Examination that Night, because he was going out upon an Expedition of great Importance, by the King's Special Order: But as the Court and Mr. *Byng* had many Questions to ask him, the Court informed him, they should be glad to go through, but that there was not Time; and then the Court adjourn'd till next Morning

Thursday 30. Admiral *West* appeared, and finished

shed his Examination about three in the Afternoon. In the Course of his Examination, some of the most material Questions were, Whether any unnecessary Delay was made at *St. Helen's*, or at *Gibraltar*? Answered in the Negative. At what Distance the *Ramilies* was from the *Buckingham* at the Time of the Engagement? He replied, about three Miles. Whether the Admiral and the Rear could have come up to the Assistance of the Van, and come to a close Engagement with the Enemy? He answer'd, he knew no Impediment to the contrary; but that he would not be understood to mean that there was none. How the Wind and Weather was? He replied, very calm and fine. Whether he could keep his lower Ports open? He replied, yes. What Damage he receiv'd in his Hull, Masts, Yards, and Rigging? For an Answer to which he referred them to a written Account he had deliver'd into Court thereof. He was asked in what Condition the Ship was in regard to Men, on the 20th of *May*, the Morning of the Engagement? He replied, in very good. Whether he saw any Fire from the Admiral's Ship during the Engagement? He said, that, when he was looking towards the *Intrepid*, which was in Distress a-stern of her, he did see some Smoak, which probably might be from the Admiral's Ship, or some of his Division; but he could not discover at what Ship it was directed. Whether on the 24th of *May*, the Day of the Council of War, his Ship was repaired, fit for a second Engagement? He answer'd, yes, before that. When? He answer'd, the very next Night after the Engagement.

Mr.

Mr. *Byng* asked him, whether it was not in the Power of the Enemy to decline coming to a close Engagement, as the two Fleets were situated? He replied, yes; but as they lay to for our Fleet, he apprehended they intended to fight. Whether he was of Opinion, that the Forces on board the Fleet could have relieved *Minorca*? He said, He believed not. Whether some of the Ships were not deficient in their Complement of Men, some of the Ships out of Repair, and whether not deficient in Point of Force with the Enemy? To which he answered in the Affirmative.

The Court having done with Mr. *West*, Lord *Blakeney* was sworn. In the Course of the Examination, he informed the Court of the Time the *British* Fleet was discovered by the Garrison, and the Time of its disappearing; that upon Sight of it he wrote a Letter, to be carried off by Mr. *Boyd*, his Storekeeper, and Aid de Camp to Colonel *Jeffreys*, to inform the Admiral of his Situation, &c. A Copy of which Letter he had in his Hand, and desired it might be read. But Mr. *Byng* objecting thereto, as it was only a Copy, and not the Original, it was not read.

Mr. *Byng* asked the General, whether he thought the Forces could be landed? He answered, Very easily. Whether there were not Fascines thrown in the Way? He said, Yes; but they might easily have been destroyed. Whether the Attempt to land the Men would not have been attended with Danger? The General replied, He had been upwards of fifty Years in the Service, and that he never knew any Expedition of Conse-

quence carried into Execution but what was attended with some Danger; but that of all the Expeditions he ever knew, this was the worst.

Mr. *Byng* ask'd, Whether the *French* had not a Castle at the Point, which might have prevented their Landing? The General answered, Not the 20th of *May*; and said, That the Enemy were in such Distress for Ammunition, that they fired Stones at the Garrison.

Mr. *Byng* ask'd the General, Whether the Officers and few Men he had on board the Fleet, would have been of any great Service to the Garrison? He answer'd, Yes, of very great Service; for that he was obliged at that Time to set some of his Men to plaister the Breaches. He added, That he believed, had the Detachment been landed, he might have held out, till Sir *Edward Hawke* came, tho' without sufficient Force to drive the Enemy away, he could not save the Island.

Friday, 31. Mr. *Boyd* was sworn. In the Course of his Examination it appeared that he was sent off with a Letter, in a Boat, to deliver to the Admiral, but could not be particular to the Time; that he kept out as long as he thought it probable to reach the Admiral; but when he found it impracticable to close the Admiral, as he was then going to the Southward, he returned without delivering the Letter.

The President of the Court asking him, if a 20 Gun Ship could have come and destroyed the Battery? Answered, Yes, if there had been deep Water, which he could not say, not having
ever

ever sounded it, tho' he had often heard it reported that there was deep Water at that Place.

Mr. *Byng* ask'd him, How long he waited before the Boat was ready to bring him off. He could not recollect, but remember'd he waited for it till he was very impatient. Whether he in the Boat did not pass thro' some Firings of the Enemy? Answered, There was some straggling Fire of small Arms, and about three or four Cannon Shot. Whether it did not do them some Damage? He answered, No; he did not know that so much as one of them touched the Boat. How long he might be off in the Boat? About an Hour and a Half. Whether there was not a Breeze of Wind? Answered, When he got from the Land, he found a Breeze. Whether he thought the Admiral could see the Boat? Answered, No; he believed not at that Distance, and so late in the Evening.

The next Witness examin'd was Capt. *Everitt*, who, before he gave his Evidence, desired to hear the Articles of the Charge, he not happening to be in Court when they were formerly read, which Mr. *Byng* objected to, as contrary to the Custom of the Court; but on the Captain's Request they were read. Captain *Everitt* being sworn, and having some Papers in his Hand, was asked what they were? He answered, They were Minutes he had taken from the Ship's Log-Book, and his own Journal, to refresh his Memory. To the using of which Mr. *Byng* objected, the Log-Book not being a proper Testimony. Whereupon the Court was cleared, to deliberate upon

the Point. Upon the Court's being opened again, their Opinion was, That those Minutes might be used to refresh his Memory upon such Points only as fell immediately under his own Observation.

In the Course of his Examination it appeared, that there was all possible Dispatch made, and no unnecessary Delay in the Sailing of the Fleet from *St. Helen's* to *Gibraltar*, and from thence to *Malbon*; that the *Buckingham's* Men were healthy, having but two incapable of coming to their Quarters; that they had about 90 or 100 Tuns of Water on Board; that they got Sight of the Island of *Minorca* about Six in the Morning of the 19th of *May*; that about Eleven in the Forenoon they were two Leagues distant from *St. Philip's* Castle, and believed that was the nearest Distance he was to it; that about Two in the Afternoon the *French* Fleet was seen distinctly, standing to the Westward, but could not say at what Distance; that our Fleet was standing to the S. E. the Wind at S. S. W. moderate fine Weather; that on the 20th of *May*, about Eight in the Morning, they saw the *French* Fleet preparing for Engagement.

The like Questions were proposed to him as to Admiral *West*; and in his Answers was of Opinion, That the Admiral's Division might have carried all their Sail, and thereby assisted the Van, and prevented them from receiving so much Fire from the Enemy's Rear.

Mr. *Byng* was asked, Whether he chose to ask Capt. *Everitt* any Questions? To which he replied, He had no Questions to propose then, but
should

should have Occasion to ask him some hereafter, therefore desired he might be kept in the Way for that Purpose. Capt. *Everitt* said, He should have been very glad if those Questions could then be asked, as he was under Sailing Orders with Admiral *West*. Mr. *Byng* answered, He could not propose them at that Time, but would as soon as possible ; upon which Capt. *Everitt* was ordered to attend the Court.

Mr. *Byng* then informed the Court, that he wanted to ask Lord *Blakeney* some Questions. Whereupon the General was ordered to attend the next Morning at Nine o'Clock ; to which Time the Court then adjourned.

Saturday, Jan. 1. Lord *Blakeney* appeared in Court, in Consequence of Mr. *Byng*'s Request ; when the Admiral proposed a Question, the Substance of which, and the Answers were as follows : Whether if the Admiral had landed his Troops, it could have saved *St. Philip's* from falling into the Hands of the Enemy ? His Lordship said, It was impossible for him to answer that Question with any Certainty ; but he was of Opinion, that had they been landed, he should have been able to have held out the Siege till Sir *Edward Hawke* had come to his Relief.

Then the four *First Lieutenants* of the *Buckingham*, Capt. *Everitt*, Admiral *West*'s Ship, were examined, and all agreed, that they knew of no Impediment to hinder the Admiral and his Division, from coming to the Assistance of the Van, which was closely engaged, and raked by the Enemy's Rear as they came up ; and that the Admiral

miral was not seen by them to go to a close Engagement with the Enemy, agreeable to his own Signals.

Monday, Jan. 3. Capt. *Everitt* was cross-examined by the Court and Mr. *Byng*; and being asked, How many Guns the Ships in the Van carried? answered, That the Sides of those next the *Buckingham* had 14 on the lower Deck, all the others 13. Of what Rate they were? answered, One a 74 Gun Ship, the others 64, and six in Number. Whether, if Admiral *Byng* had come to a close Engagement, a compleat Victory might not have been obtained? Answer, There was all the Reason in the World to expect it; it being well known that Admiral *West* beat off two Ships, though he had but five Ships to their six, and ours smaller Ships than theirs, and their Metal heavier. How the Wind? as fair a Gale as could be wished for. Whether he had too much or too little? Answer, Just enough, and no more. What Sail had Mr. *Byng*? Answer, His lower Courses, Top and Top-Gallant Sails full; but his Main-Sail, Main-Top-Sail, and Top-gallant Sail, a-back.

The Court then asked Mr. *Byng*, If he should have Occasion to ask Capt. *Everitt*, or any of the *Buckingham's* People, any more Questions? and being answered in the Negative, the Captain, and the rest of the Officers of the *Buckingham*, were discharged from any further Attendance on the Court, and were informed they might repair on Board their Ship.

Capt. *Gilbert* sworn. He acquainted the Court, that he was situated opposite the Rear Admiral on the 20th of *May* to repeat Signals. In the Course
of

of his Examination he said, Every Ship did not bear down at a proper Distance to attack the Enemy, according to Signals thrown out by the Admiral, about Half an Hour past Two o'Clock; but the Rear-Admiral and his Division bore down before the Wind, and hauled up opposite to their proper Ships, and attacked the Enemy, except the *Defiance*, which appeared to be a-head; that the Ships in the Rear were in a Line of Battle a-head; upon which the *Defiance* threw all a-back, and fell down upon her proper Ship, the Head-moſt Ship of the Enemy; that the Admiral did not bear down before the Wind upon the Enemy, nor any of his Division; that the *French* Fleet, at the Time of the Signal, were all lying to with their Main-Top-Sails to the Maſts; and that our Van was in the ſame Poſition. He could not take upon him to ſay, whether the Admiral ever engaged at a proper Distance, on Account of the Smoak from the Firings of the *Revenge*, *Prinſeſs Louiſa*, and *Trident*. He agreed that the Wind, Weather, and Situation of the Enemy's Fleet, were ſuch as to enable them to engage at a proper Distance; that the Ships in the Rear did not make all the Sail they could to cloſe with the Enemy, from the Time the Signal was given for Battle till the Action was over; but that, in the latter Part of the Action, Mr. *Byng* ſet all his Sail, except his Top-Gallant Sails; that the Wind and Weather was ſuch, that he could have carried all the Sail in the Ship that he commanded, and knew no Reaſon why he did not; that the Van of our Fleet was engaged about an Hour and a Quarter; that the Admiral did not

continue

continue in the same Position, but kept lasking away, angling upon the Enemy; that he saw the *Ramillies* fire; that the Distance of the Rear Division from the Van seemed to be about three Miles; that he made no Doubt, if the Admiral had carried Sail all along, but they might have prevented the Enemy's Rear from pouring some of their Fire into our Van; and that the Distance between our Rear and Van, was occasioned by the Rear throwing their Top-sails a-back when they began to fire.

Being asked, If the Admiral had engaged, whether he might have defeated the *French*? answered, That his Opinion was, he might.

Another Officer, whose Name is forgot, was peremptorily asked, If he saw the Admiral engaged? answered, He saw a Firing. When one of the Gentlemen said somewhat smartly, Is not firing engaging? The Officer replied, He did not call firing of Guns at so great a Distance engaging.

Capt. *Hervey*, of the *Phenix*, sworn. He was stationed a-breast the Admiral to repeat Signals. He said, that about Forty-three Minutes after Two, Signal was made for the *Deptford* to quit the Line; and about fifty Minutes after Two the *Ramilies* began to fire upon the Enemy, having before that received the Fire of the three sternmost Ships of the Enemy for about ten or twelve Minutes, in which Time he observed some of the Enemy's Shot to fall between the *Ramilies* and his Ship the *Phenix*; about the same Time he observed the *Intrepid's* Fore-top Mast to be lost; he
observed

observed then the quick Motion of the *Intrepid* in bearing down, had occasioned her to be raked by the Enemy, to have lost her Top-Mast, and to have run the Risque of falling on Board the Admiral, who was then engaged, and might not see them Time enough to prevent it. Some Time after the *Ramillies* ceased Fire, the eleventh Ship in the Enemy's Line bore away from the *Ramillies* Fire, as was concluded by the People on Board; that the *Culloden* fired but a few Times, and at a greater Distance than the *Ramillies*; that the whole Fire ceased about Five in the Afternoon; that the Enemy seemed to go off from the Fire of our Van, some of them not damaged. This in general; but the President desiring him to give as distinct and particular Account as he could of the Action, after the Signal to engage; he gave his Evidence as follows:

I presume, I am to begin with the Signal to engage; the Minutes I have in my Hand are only in respect to Time.

The Signal was made about twenty Minutes after Two for engaging. At the Time the Signal was made, some of the *English* Fleet bore away rather more than others; which I take to be owing to the Ships in the Van not having observed the Signal before for leading large, which was made by the Admiral, and which I repeated about Two; I recollect to have repeated it two or three Times afterwards.

The Admiral bore down with his Top-sails, and, as near as I can recollect, with his Fore-sail set at that Time; and I very well remember saying,

C

that

that the Admiral seemed to me to bear away rather more than either of the Seconds. The *Buckingham* and *Lancaster* bore down also on the Ships of the Enemy, which, as I imagined, they took to have fell to their Lot. The *Intrepid* I saw bear right down. I cannot say, I was excessively minute upon the Proceedings of the Van then, I was more attentive to the Admiral, whose Signals I was to repeat; and another Reason was, I was then employed in shifting Men and Things into a Schooner, which was ordered to attend me, and in compleating and fitting my Ship for burning as a Fire-ship.

It was about half an Hour past Two, I think, when some of the *French* Van began to fire, and soon after that the Fire became general, except from two or three of the Sternmost of the Enemy, and they seemed to be reserving their Fire for the Admiral Commander in Chief, who was then going down upon them. About forty-three Minutes after Two, the Signal was made for the *Deptford* to quit the Line; I had my Watch in my Hand, and therefore can be more particular, and I think it was about fifty Minutes after Two that the *Ramilies* began to fire, having before received the Fire of these sternmost Ships of the Enemy for about ten or twelve Minutes (I am not certain as to a Minute or two) in which Time, I observed several of the Enemy's Shot to fall between the *Ramilies* and the Ship I commanded. It was about this Time, when I observed the *Intrepid's* Fore-topmast to be shot away; it might have been done sooner, but I did not observe it till then; she seemed

seemed then to lay muzzled, her Fore-sail a-back, or in the Wind, and her Main-top-sail in the Wind also ; I imagined that to be from her Fore-tack being shot away, or something of that Kind.

About Three I saw the *Revenge*, *Princess Louisa*, and *Trident*, all three with their Top-sails a-back, the *Revenge* very near the *Intrepid*, under her Lee Quarter, and a little a-stern withal. I remember then to have said upon Deck, that quick Motion of the *Intrepid's*, in bearing down right before the Wind, occasioned her being raked and losing her Fore-top-Mast, and the Ship next to her not passing her would bring those Ships a-stern of her, and a-head of the Admiral, in such a Cluster, that they would run the Rique of dropping on Board of the Admiral, who was then engaged, and probably might not see them soon enough to prevent it.

About five or six Minutes after Three, I saw the *Ramillies's* Topsails a-back, and at the same Time, a Yellow Flag at the Mizzen-top-Mast Head, which was hauled down while I was endeavouring to repeat it, and a Yellow Flag hoisted at the Fore-top-Mast Head. I take that Yellow Flag at the Mizzen-top-Mast Head to have been up five or six Minutes, because, while the Men at the Mizzen-top-Mast were bending it, I was obliged to order it down again, to repeat that which was hoisted on Board the Admiral at the Fore-top-Mast Head, I having but one Yellow Flag on Board.

About six or seven Minutes afterwards, a red Ensign was hoisted at the Mizzen-top-Mast Head ; and I believe it was much about the Time of the

Signals being made to bring to, that the *Ramillies* ceased firing.

In Narratives of this Kind, one cannot keep Time so exactly as I could wish, but must go back from one Thing to another.

At the Time of the Smoak being cleared away by their ceasing firing, I observed the eleventh Ship in the Enemy's Line to have kept away large with his Main-top-sail Yard down, which I remember, on board, we then concluded was from the *Ramillies* Fire, for the *Culloden* had fired but very few Guns, and those at a greater Distance than the *Ramillies*.

It was about Three when the *Ramillies* filled and made Sail, Fore-sail, Jibb and Stay-Sail; I think that was the Sail at that Time; and at Four the Signal was made for the *Chesterfield* to lay by the *Intrepid*, and then the *Revenge*, *Princess Louisa*, and *Trident* were recovering their Stations in the Line a-head of the Admiral, who then had his Courses, Top-sails, Jibb, and Stay-sails set; I think the Main-sail was set then, it was just then I saw it, it might have been set before, but I did not observe it till then; at that Time, or about that Time, the *Intrepid* being then got clear of the Line, I then saw the *Deptford* shifting her Pendant to the Fore-top-Mast Head, hoisting a red Ensign, and she crowded Sail, seemingly to me, to be standing for the *Intrepid's* Station in the Line.

About Five the whole Firing ceased; I then saw the *Buckingham* with her Main-top-Sail Yard down, and I think her Fore-top-gallant Sail and Sprit-

sail set. The *Lancaster* and *Portland* were then at some Distance from the *Buckingham*, the Captain rather upon the *Buckingham's* Weather Quarter, and a-stern withal, and the *Defiance* close upon the Captain's Weather Quarter. The *Defiance*, before that, seemed to be disabled in her Sails and Rigging, which I imagined, occasioned her to fall a-stern out of her Station.

The *French* fourth or fifth Ship from the Van, seemed to me to have bore away from the Fire of our Ships in the Van, and very soon afterwards the three headmost of the Enemy did the same ; but none of them appeared to me to be disabled : So that, whether it was to avoid the Action, or by a Signal from the Commander in Chief (for I saw Flags flying on board the *French* Admiral) I should rather imagine the latter, as I had not observed any such close Engagement as to oblige Ships of their seeming Force, to avoid an Action, which I imagine they had in their Power from the Beginning, by out-failing the Ships of our Fleet, as well as I could observe, when our Ships had more Sail set than what I observed the Enemy to have.

Being asked, If the Flags which he saw on board the *French* Admiral, might not be Signals to recal his retreating Ships, as well as to call them off ? answered, *Certainly Yes.*

The *French* Admiral with the rest of the Ships, were then edging down under their Top-sails and Fore-sails to close their Van ; and though I observed, that the Rear of the Fleet closed our Van very fast, which was then very much disordered, yet they did not appear to me to gain any thing of
the

Enemy. A little after Five, the Rear had closed the Van ; when I speak of the Van, I mean the *Buckingham*, who then had the *Captain* and *Defiance* upon her Weather Quarter ; the *Portland* and *Lancaster* were then a considerable Way ahead.

About thirty Minutes after Five, the Signal was made to bring to ; and a little before Six, the Signal was made to fill and stand on. The *Intrepid* and *Chesterfield* were then a considerable Way astern, and upon the Weather Quarter withal.

At twenty Minutes after Six, the Signal was made to tack ; and for the Ships that led before with the Larboard Tack, to continue to lead with the Starboard Tack. At Seven, the Signal of the Line was hauled down.

I then ceased from repeating Signals, and went on Board the Admiral to receive his Commands.... That is all I know in general of the Action.

Friday, 4. Captain *Hervey* was re-examined till near Two, with very little Variation from the Narrative he had given the Court the Day before.

Captain *Amburst*, on his Examination, said, he thought Mr. *Byng* would have fought, if the *French* had staid: But the Confusion this Evidence was in, his advancing no plausible Reason for his Belief, and his negative Answers to the Questions respecting Distance, Sailing, &c. added to the Circumstance of the *French* Rear's lying to an Hour and a Quarter, and in Fact, not going away till their Van retreated, made his Opinion too weak to be depended upon.

Wednesday,

Wednesday, 5. Mr. *Lloyd*, a 'Lieutenant, and Mr. *Philips*, a Volunteer on board the Fleet, but now a Captain, were examin'd; in whose Examination nothing particular appeared further than has already noted.

Thursday, 6. The Lieutenant of the *Lancaster* was examined, and then a Gentleman who was a Volunteer on board. Their Evidence seem'd very clear and certain as to some particular Facts which fell immediately under their Observation, but were not much in Favour of the Admiral.

Captain *Young* being called and sworn, depos'd, That the Rear might have went down as well as himself, who had only his Topsails and Forefails; but the most remarkable Thing in his Evidence was, his saying, that the *losing his Topmast* could neither then make him run foul of the Rear, he being to Leeward, nor was it probable they could on him, the Distance being so great; tho' this was the Admiral's Excuse, in his Letter publish'd in the *Gazette*: and what Captain *Hervey*, the Admiral's principal Advocate, intimated in his Evidence, was very likely to have happened, had not the Admiral thrown his Sails a-back to prevent it.

Captain *Young* added, that after he had cut his Rigging away, he hoisted Main Topfail and Forefail, and fought again, till the *Revenge's* Boat came with Notice from Captain *Cornwall*, that he was coming to his Assistance, to desire him to cease firing, and he would place himself betwixt him and the Enemy, which he did.

But

But this Matter being more fully explain'd in the Captain's Cross-Examination, we shall give it *verbatim* as follows :

Friday, 7. Did the Loss of your Foretop-mast put any of our Ships in our Rear in Danger of being on board you ?

A. Not as I could perceive.

Q. Did it occasion any Impediment to the Admiral and his Division from going down, and engaging the Enemy closely ?

A. Not as I could perceive.

Q. Did any of the Ships tack at that Time ?

A. I did not observe just then ; they were to Windward of me ; and I saw several of the Ships upon my Weather-Quarter with their Topsails a-back.

Q. Did you think at that Time they were in any Danger of being a-board you ?

A. No ; I was to Leeward of them, so could not drive a-thwart them.

Q. Could they at that Time have wore clear of you, and gone down to the Center and Rear of the Enemy ?

A. Yes ; because I was a-head and to Leeward.

Q. Did the Admiral and his Division bear down on your Stern, and go to the Center and Rear of the Enemy ?

A. No ; not when my Top-mast went away.

Q. Did they at any Time afterwards ?

A. Yes, near an Hour after, and went to Leeward of me, and passed me.

Q. Did they go down to the Center and Rear to engage properly ?

A.

A. The *French* were then gone, and left me a-stern.

Q. What Sail had the *French* Rear set when they passed you?

A. I think their Top-sails and Fore-sails.

Q. What Sail had the Admiral and his Division abroad then?

A. Fore-sails and Stay-sails, and the *Culloden* her Top-gallant-Sails.

Q. How long after you lost your Top-mast was it before the Admiral and his Division passed to Leeward of you?

A. About three Quarters of an Hour or an Hour.

Q. With the Wind as it then was; could the Admiral and his Division, if they had set all their Sails, from the Time the Signal for engaging was made and borne away properly, could they have come to a close Engagement with the Enemy?

A. Yes; the *French* were lying too far for us; I went down only under my Top-sails, and they might have added Sails in Proportion to the Distance and Going of their Ships.

Q. During the three Quarters of an Hour, or an Hour, which you mentioned just now, did you observe what Sail the Admiral and his Division were under?

A. No, not particularly.

Q. Did you observe any Motions that were made for going down to the Enemy?

A. No.

Q. How long after you lost your Fore-mast did the Center and Rear of the *French* Line lay to?

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A.

A. Till the *Revenge's* Boat came on Board me, and desired I would leave off firing, that they might make Sail and go between me and the Enemy, which they did directly; the *French* Fleet then run, who were opposite to me, and the Rear followed them.

Q. After the Admiral and his Division had made Sail, did they get up with the Center and Rear of the Enemy, so as to come to a close Engagement?

A. There was very little Action after that Time.

Q. Did you, before the *French* run, see the Admiral and his Division closely engaged with the Enemy?

A. No; they were a-stern and to Windward of me.

Q. Did you see the Admiral and his Division engage from first to last?

A. Yes; some of the Ships; they fired.

Q. Did you observe at what Distance they were one from the other?

A. I did not take Notice.

Q. Did you see any of their Shot fall?

A. No; I was too much employed to take Notice.

Q. Was you within point-blank Shot of the Enemy?

A. I can't judge that exactly.

Q. At what Distance do you suppose you were at that Time?

A. Within random Musquet Shot, I believe, as
the

the Lieutenant was wounded with a Musquet Ball.

Q. How far were the Rear off at that Time?

A. I did not take Notice.

Q. When you bore down on the Enemy, did the Admiral and his Squadron do so too?

A. No.

Q. Under what Sail were the Admiral and his Division at that Time.

A. Under their Top-sails and Fore-sails.

Q. If they had bore down as the *Intrepid*, could they have closed the Enemy so as to have engaged properly?

A. Yes, the *French* were laying too.

Q. Did they lay too long enough to admit of it, supposing the Admiral and his Division had set all their Sails?

A. Yes, long enough for me, and I suppose for the rest too.

Q. Were our Ships in a proper Line of Battle a-head of one another, when the Signal for engaging was made? And had all our Ships bore away at the same Time, would it not have prevented the running aboard each other?

A. Yes, there was a very good Line formed; they were not so near together but every Ship had Room to wear.

Saturday 8. Capt. Cornwall was sworn. In the Course of his Examination, he said, that he went to his Windows abaft to take a View of the Fleet when in Line of Battle; that he was greatly surprized to see the Admiral and his Division at so great a Distance, as he was upon the Weather

Quarter ; that seeing the *Intrepid* in Distress, and no Signal given for removing her out of the Line, he fell into her Station, engaged the *Foudroyant*, the *French* Admiral, as the Ship he imagined fell to his Lot, according to the then Line of Battle ; said, he knew of no Impediment to prevent the Admiral's engaging at a proper Distance, any more than the rest of the Fleet ; observed, he was upon his Oath to swear the whole Truth, and would do so, though some Things he was going to say would affect himself ; confessed, he went without Orders to assist the *Intrepid* ; and being asked by the Admiral, If he did not break through an Article of his Instructions in going without his Command ? answered, Yes ; but added, If I did go beyond my Duty, it was my *Zeal for my Country*, though he mentioned another Article that favoured him.

Mr. Byng, upon this, observed to the Court, that his Reputation, which was dearer to him than his Life, nay his Life also, were in the Hands of the Court Martial, and in better Hands he desired them not ; but said, he should prove, that the *Revenge*, by breaking the Line, was a great Impediment in his Way ; and that if he could not prove that, or Something like it, *The Lord have mercy upon me.*

N. B. This Capt. Cornwall lost his *Arm* in the memorable Engagement in the Mediterranean, under Admiral Matthews, on Board the *Marlborough*, when his Uncle Capt. Cornwall lost his *Life* ; being then First Lieutenant.

Monday

Monday, 10. Captain *Cornwall's* Cross-Examination was finished.

Captain *Durell*, of the *Trident*, being sworn, deposed much the same as Captain *Cornwall*; did not accuse the Admiral of any unnecessary Delay to *Minorca*; was of Opinion, that the Admiral and his Division did not set all their Sail to join the Van of the *British* Fleet; but could not say the Admiral had not any Impediment to prevent it.

Tuesday, 11. Captain *Gardiner*, Admiral *Byng's* Captain, was under Examination and Re-examination all Day. He could not say all their Sails were set, or that the Rear Division could not come up to a close Engagement, as well as the Van; but said he advised the Admiral to bear down, to which the Admiral objected, and gave his Reasons against it; lest an Accident of a similar Nature with that of Admiral *Matthews* in the same Seas, should be the Consequence; and had nothing to say against the Admiral's personal Behaviour; said, he believed the Admiral intended a close Engagement, by his telling the Sailors, whose Eagerness for Action had engaged them to fire without Orders, to save their shot till they came nearer to do Execution.

Wednesday, 12. Captain *Gardiner* was again examined, and made it appear, that the Admiral took the whole Command of the Ship from him, and that nothing was done that Day but what he ordered.

Then the Land Officers on board the *Ramillies*
were

were examined. The Lord *Robert Bertie's* Examination was as follows:

Q. Was not your Lordship, with your Regiment, ordered to serve in the Fleet under Admiral *Byng's* Command?

A. The Orders I received are dated the 28th of *March*, from the Secretary at War. They are to put myself under the Command of Admiral *Byng*, and to obey such Orders as I might receive, from Time to Time, from him, or any other commanding that Squadron.

Q. Do you know of any Troops embarked in the Fleet, besides your Regiment, except some few Officers and Recruits, and the Detachment from the Garrison at *Gibraltar*, that were put on Board the Ships of Mr. *Edgcombe's* Squadron, in the room of some of their Men that were left in the Garrison of *St. Philip*?

A. No.

Q. Do you apprehend, that the throwing in about an hundred Men, consisting of Officers and Recruits, would have enabled the Garrison to hold out against the Enemy's Attacks?

A. No; I apprehend they were of much more Service on Board the Fleet.

Q. Was you upon the Quarter-Deck near the Admiral, during the whole Time of the Enemy's firing?

A. Yes; I was near the Admiral during the whole Time that the *Ramillies* was fired upon.

Q. Did the Admiral, from the Time the Signal was made to engage, continue going down upon the Enemy?

A.

A. It appeared to me, that he was going down flanting to the Enemy, till such Time as the Admiral laid a-back.

Q. Will you be pleased to inform the Court, if, during the Time of Action on the 20th of *May*, the Admiral expressed any Impatience or Uneasiness at any Accident the Admiral judged to impede his engaging the Enemy properly?

A. At the Time the Admiral lay a-back, I heard him say, he wonder'd what the Ships a-head were about.

Q. While the *Ramillies* continued going down upon the Enemy, did not their Shot reach her and pass over her?

A. At the Time the *French* fired at the *Ramillies*, they reached her, passed over, and some hulled her.

Q. At the Time that the Enemy were firing upon us, and their Shot passing over us, did you hear the Admiral say any Thing on that Occasion?

A. I recollect, that when the *French* were firing upon us, the Admiral desired Captain *Gardiner* not to fire, till such Time as we were down a long side of them.

Q. Did you not inform the Admiral, during the Time of the Firing, that you discerned thro' the Smoak, one of your Ships close under the Star-board Bow; and that if we did not immediately cease firing, we should fire into her?

A. The Words I made use of to the Admiral, as well as I can recollect, were, "Do you, or
" Captain *Gardiner*, see that Ship upon our Star-board
board

"board Bow? I apprehend her to be one of ours;
"if you do not take Care we shall fire into
"her."

Q. Did firing cease on board the *Ramillies*, as you apprehend, to avoid firing through our own Ship?

A. Yes.

Then Admiral *Byng* delivered some Questions to the President, which he desired the Judge Advocate might ask of the Witness. The President answer'd, I will ask them.

Q. Was you near the Admiral's Person before, during, and after the Action, and did you observe his Behaviour?

A. I was near him the whole Day of the Action.

Q. Did you perceive any Backwardness in the Admiral during the Action, or any Marks of Fear or Confusion, either from his Countenance or Behaviour?

Q. He seem'd to me to give his Orders coolly and distinctly; and I don't apprehend he was in the least wanting in personal Courage.

Q. Did the Admiral appear solicitous to engage the Enemy, and to assist his Majesty's Ships that were engaged with the Enemy?

Q. Yes.

Q. Did you, on or after the Day of Action, hear any Murmuring or Discontent among the Officers or Men, upon any Supposition that the Admiral had not done his Duty?

A. I never heard any one of the *Ramillies* speak disrespectfully of the Admiral.

Colonel

Colonel *Smith*, who was also upon Quarter-Deck with the Admiral, confirmed the above in every Particular with this additional Circumstance, that a Shot from the Enemy passed between him and Lord *Bertie*, as they were a-baft the Mainmast, which took off the Head of a Timber upon Deck, and went thro' the Hammocks in the Main Shrouds; said, the Admiral shewed no Signs of Fear, but quite the Reverse.

Captain *Edgar*, who was quarter'd upon the Poop, confirmed such of the above Circumstances as came immediately under his own Observation; but was not asked any Questions relative to the personal Behaviour of the Admiral, his Situation not giving him an Opportunity of answering to the same.

Colonel *Cornwallis*, being sworn, said, that he was on Board the *Kingston*, could give no Account of the Action, and was willing to answer any Questions the Court demanded, or Mr. *Byng* would propose, but none were ask'd.

Captain *Gough*, first Lieutenant of the *Ramillies*, being sworn, said, That at the Time of the Signal being made for engaging, the Fleet appeared in a close and regular Line; that two Ships, which he believed to be the *Trident* and *Louisa*, were under their Lee-Bow; could not say at what Distance the *Ramilies* was from the Enemy at the Time of the Signal for engaging, being mostly at his Quarters, but believed when they began to engage, they were nearly at Point-Blank with the Enemy.

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Captain

Captain *Basset*, second Lieutenant, being quartered upon the Lower-Deck, could not answer to the Distance, nor how long they continued firing; said, that several of the Enemy's Shot reached them.

Capt. *Watby*, Third Lieutenant of the *Ramillies*, quartered upon the Middle Deck, said, that the *Ramillies* was bearing down when the Signal was made; that he was ordered to double-shot the Guns, for the Admiral did not intend to fire till he came close up with the Enemy, and confirmed the above Testimony of a Ship or Ships being on their Lee-bow; agreed there was a commanding Breeze, and if all their Sails had been set, they should have been closer to the Enemy, and said, he believed they were within half a Mile of the Enemy.

Mr. *Clark*, the Fourth Lieutenant, was called, but not being on Board, Mr. *Waterfall*, the Fifth Lieutenant, was examined, who said, he was quartered on the Lower Deck, knew not the Distance from the Enemy, but apprehended they were within proper Distance for Engaging; that he received Orders by Lord *Robert Bertie*, to leave off firing on Account of the Ship on the Lee-bow.

The Sixth Lieutenant of the *Ramillies*, who was quartered on the upper Gun-Deck, by the Main-mast forward, confirmed the preceding Testimony chiefly, and said, when the *Ramillies* begun to bear down, it might be about two Miles Distance, and was at the Distance of about half a Mile when they began to fire; said, that through the Smoak he discovered the *Trident's* red Stern, and
Part

Part of her blue Colours, and that she was then upon her Lee-bow very near.

Thursday, 13. Lieutenant *Clark* was examined, whose Evidence agreed in general with the other Lieutenants.

The Carpenter of the *Intrepid* was sworn, and was asked but one Question, *viz.* If he could justify the Defects of the Ship, as he had given them in? which he answering positively in the Affirmative, the Court discharged him.

The Gunner of the *Ramillies* was examined as to the Powder expended that Day, who answered 20 Barrels, and 300 double-headed Shot. He was much confused, and said, the *Intrepid* was in their Way, and they could not bear down; but was told, he could not be Judge of that, being quartered on the Lower Gun-Deck.

The Carpenter said, he could give no Account, being at his Duty in the Wings.

The Boatswain said, he was minding his Rigging, and therefore could give no Account of the Matter.

The Master gave his Evidence very confusedly, and by saying and unsaying, did the Admiral more Detriment than Service.

Friday, 14. Several Midshipmen were examined, and the Surgeon of the *Ramillies*, whose Evidence was not very material one way or the other.

Capt. *Ward* was likewise examined; who swore, that the Admiral was retarded by backing his Top Sails near or quite half an Hour; and that had they set more Sail at first, they should certainly have got down close to the Enemy.

Saturday, 15. Capt. *Ward's* Lieutenant was examined.

Likewise Capt. *Perry*, whose Evidence was near the same with the rest of the Captains, *viz.* that he thought the Admiral might have carried his Top-gallant Sails that Day.

Here the Evidence for the King was closed by the Judge Advocate, and the Court adjourned to *Monday* Morning nine o'Clock, when Admiral *Byng* was to begin his Defence.

Monday, 17. Mr. *Byng* appeared to make his Defence ; but nothing material was done.

Tuesday, 18. Mr. *Byng* delivered his Defence into Court, which was read by the Judge Advocate, in which he took Notice of the many Indignities which he had undergone, by an enraged and deluded People ; that he had been treated like a Felon ; had been hanged and burnt in Effigy ; his Person closely confined, and the Windows of his Prison barricaded. He then observed to the Court, That he humbly presumed, no Proof had been given against him of any unnecessary Delay in the Fleet's sailing to *Minorca*, nor of his discovering any Backwardness or Signs of Fear, against engaging the Enemy ; therefore moved the Court to give their Opinion thereon, as it might be a Means in saving some Time in the Course of his Defence.

The Court was then ordered to be cleared upon this Motion, and in about an Hour and a Half was opened again. The Judge Advocate then read the unanimous Resolution of the Court ; which
was

was, That they could not give any Opinion till the Witnesses in his Defence were examined.

Mr. *Byng* then called Capt. *Gardiner* again, and asked many Questions, most of which being Matter of Opinion, he begged Leave to refer them to the Court.

Capt. *Gardiner*'s Cross-Examination being gone through, the Court asked Mr. *Byng*, Who he should have Occasion to call To-morrow? He replied, Capt. *Amburst*, *Hervey*, and *Phillips*. The Court then adjourned till next Morning.

Wednesday, 19. Mr. *Byng* delivered a Paper, declaring he had no more Evidence to produce but his Secretary, and would give the Court no farther Trouble; and likewise said, That his not going down to engage the Enemy, was not owing to his Want of Courage, but must be an Error in his Judgment.

The Admiral having nothing more to say in his Defence, the Court closed. The next Morning the Members of the Court met, in order to revise the Evidence that had been given by the Witnesses during the Course of this long Trial, to consider the Strength of the Proofs for and against him, and to pass such an equitable Sentence as might do Justice both to their Country and the Prisoner.

Full eight Days were taken up in canvassing the Proceedings; and the Variety of the Evidence gave Occasion for several warm Debates among them, and they were a good while divided in their Opinions as to his Guilt or Innocence. Five of them found him guilty of the whole Charge, and consequently that he ought to suffer Death. Four
of

of them were only for breaking him, and thought the Loss of his Commission was a sufficient Punishment. And four of them were for entirely acquitting him. But as they could not deviate from the Articles of War, settled by an Act of Parliament, they at length unanimously agreed in the following Sentence :

The SENTENCE of the COURT-MARTIAL.

‘ **T**HE Court, pursuant to an Order from
 ‘ the Lords Commissioners of the Admir-
 ‘ ralty, to Vice-Admiral *Smith*, dated *December*,
 ‘ 14, 1756, proceeded to enquire into the Conduct
 ‘ of the Hon. *John Byng*, Esq; Admiral of the
 ‘ Blue Squadron of his Majesty’s Fleet, and to
 ‘ try him upon a Charge, that, during the Engage-
 ‘ ment of his Majesty’s Fleet, under his Com-
 ‘ mand, and the Fleet of the *French* King, on
 ‘ the 20th of *May* last, he did withdraw or keep
 ‘ back, and did not do his utmost to take, seize,
 ‘ and destroy the Ships of the *French* King, which it
 ‘ was his Duty to have engaged ; and to assist such
 ‘ of his Majesty’s Ships as were engaged in Fight
 ‘ with the *French* Ships, which it was his Duty
 ‘ to have assisted ; and that he did not do his ut-
 ‘ most to relieve *St. Philip’s* Castle, in his Ma-
 ‘ jesty’s Island of *Minorca*, then besieged by the
 ‘ Forces of the *French* King, but acted contrary
 ‘ to, and in Breach of his Majesty’s Command.
 ‘ And having heard the Evidence, and the Priso-
 ‘ ner’s Defence, and very maturely and thoroughly
 ‘ consider’d the same, they are unanimously of
 ‘ Opinion, that he did not do his utmost to re-
 ‘ lieve *St. Philip’s* Castle ; and also, that during
 ‘ the

' the Engagement between his Majesty's Fleet
 ' under his Command, and the Fleet of the
 ' *French* King on the 20th of *May* last, he did not
 ' do his utmost to take, seize, and destroy the
 ' Ships of the *French* King, which it was his
 ' Duty to have engaged; and to assist such of his
 ' Majesty's Ships as were engaged in Fight
 ' with the *French*, which it was his Duty
 ' to have assisted; and therefore unanimously
 ' agree, that he falls under Part of the 12th
 ' Article of an Act of Parliament of the 22d
 ' Year of his present Majesty, for amending,
 ' and explaining, and reducing into one Act of
 ' Parliament, the Laws relating to the Govern-
 ' ment of his Majesty's Ships, Vessels, and Forces
 ' by Sea; and as that Article positively prescribes
 ' Death, without any Alternative left to the Dis-
 ' cretion of the Court, under any Variation of
 ' Circumstances; the Court do therefore unani-
 ' mously adjudge the said Admiral *John Byng* to
 ' to Death, at such Time, and on board such
 ' Ship, as the Lords Commissioners of the Admi-
 ' ralty shall direct.

' But as it appears by the Evidence of Lord
 ' *Robert Bertie*, Lieutenant Colonel *Smith*, Capt.
 ' *Gardiner*, and other Officers of the Ship, who
 ' were near the Person of the Admiral, that they
 ' did not perceive any Backwardness in him during
 ' the Action; or any Marks of Fear and Confu-
 ' sion, either from his Countenance or Behaviour,
 ' but that he seemed to give his Orders coolly and
 ' distinctly, and did not seem wanting in personal
 ' Courage, and from other Circumstances, the
 ' Court do not believe his Misconduct arose either
 ' from

from Cowardice or Disaffection, and therefore
 ' do unanimously think it their Duty to recom-
 ' mend him as a proper Object of Mercy.'

The above Sentence was attended with the fol-
 lowing earnest Representation to the Right
 Hon. the Lords Commissioners for executing
 the Office of Lord High Admiral of *Great*
Britain : .

' **W**E the underwritten the President and
 ' Members of the Court-Martial, affem-
 ' bled for the Trial of Admiral *Byng*, believe it
 ' is unnecessary to inform your Lordships, that in
 ' this long Trial, we have done our utmost Endea-
 ' vours to come at Truths, and to do the strictest
 ' Justice to our Country and the Prisoner; but
 ' we cannot help laying the Distresses of our Minds
 ' before your Lordships on this Occasion, in find-
 ' ing ourselves under a Necessity of condemning
 ' a Man to Death, from the great Severity of the
 ' Twelfth Article, Part of which he falls under,
 ' and which admits of no Mitigation, even if the
 ' Crime should be committed by any Error in
 ' Judgment only; and therefore for our Con-
 ' sciences Sakes, as well as in Justice to the Pri-
 ' soner, we pray your Lordships in the most ear-
 ' nest Manner to recommend him to his Majesty's
 ' Clemency. We are,

My Lords, &c. &c.

Twelfth ARTICLE of WAR, 13 of Charles II.

' **E**VERY Captain, and all other Officers,
 ' Mariners, and Soldiers of every Ship, Fri-
 ' gate, or Vessels of War, that shall in Time of
 ' any

' any Fight or Engagement, withdraw or keep
 ' back, or not come into the Fight, and engage
 ' and do his utmost to take, fire, kill, and enda-
 ' mage the Enemy, Pirate, or Rebels, and assist
 ' and relieve all, and every of his Majesty's Ships,
 ' shall for such Offence of Cowardice or Disaffec-
 ' tion, be tried and suffer Pains of Death, or
 ' other Punishment as the Circumstances of the Of-
 ' fence, and the Court-Martial shall judge fit.'

*The Twelfth ARTICLE, as it stands in the Act of
 the 22d of his present Majesty.*

' **E**VERY Person in the Fleet, who thro'
 ' Cowardice, Negligence, or Disaffection,
 ' shall in Time of Action, withdraw or keep
 ' back, or not come into the Fight or En-
 ' gagement, or shall not do his utmost to take
 ' or destroy every Ship which it shall be his Duty
 ' to engage, and to assist and relieve all and every
 ' of his Majesty's Ships, or those of his Allies,
 ' which it shall be his Duty to assist and relieve,
 ' every Person so offending, and being convicted
 ' thereof by the Sentence of a Court-Martial,
 ' shall suffer *DEATH*.'

The Words mark'd with *Italics* in the first of
 the Articles, and the Words mark'd in the same
 Manner in the second, seem to have occasioned
 the Distress of Mind in the Court, in their Re-
 presentation in Behalf of the Admiral, as above-
 mentioned.

Thus have we seen Sentence of Death pass'd by
 the Court-Martial on this famous Offender; but
 F they

they can proceed no further ; for the executive Part is vested in other Hands ; as appears by the following Clause, taken from the Act 22 Geo. II. which runs thus :

‘ FROM and after the 25th of *December*,
 ‘ 1749, no Sentence of Death given by any
 ‘ Court-Martial, held within the narrow Seas
 ‘ (except in Cases of Mutiny) shall be executed till
 ‘ the Report of the Proceedings shall have been
 ‘ made to the Lord High Admiral, or the Com-
 ‘ missioners for executing the said Office, and his
 ‘ or their Directions shall have been given therein :
 ‘ And if the said Court shall have been held beyond
 ‘ the narrow Seas, then such Sentence of Death
 ‘ shall not be executed but by Order of the Com-
 ‘ mander of the Fleet or Squadron wherein Sen-
 ‘ tence was passed ; and where Sentence of Death
 ‘ shall be passed in any Squadron detached from any
 ‘ other Fleet or Squadron upon a separate Service,
 ‘ then such Sentence (except in Cases of Mutiny)
 ‘ shall not be executed but by Order of the Com-
 ‘ mander of the Fleet or Squadron, from which
 ‘ such Detachment shall have been made, or of
 ‘ the Lord High Admiral, or Commissioners for
 ‘ executing the said Office ; and where Sentence
 ‘ of Death shall be passed in any Court held by
 ‘ the senior Officer of five or more Ships which
 ‘ shall happen to meet in foreign Parts ; then such
 ‘ Sentence (except in Cases of Mutiny) shall not
 ‘ be executed but by Order of the Lord High
 ‘ Admiral, or Commissioners for executing the
 ‘ said Office.’

When

When the Admiral was ordered into Court to receive his Sentence, he went with his Friend Mr. *B—n*, and in such full Expectation of being acquitted, that they had agreed to dine together. When they came on Board the *St. George*, one of the Court-Martial beckon'd the Gentleman aside, and told him, That as he believed the Admiral expected to be acquitted, he thought it might shock him less, to be acquainted before he went in, that his Sentence would be Death. On his Friend's coming back to him, and looking disorder'd, the Admiral ask'd him, with some Warmth, "What is the Matter? Have they thrown a Slur upon me?" "Sir, said his Friend, it is worse; your Sentence will be Death!" After a short Pause, he answered, "Well, if my Death will appease the Clamours of the People, in God's Name let them have it."

The Admiral heard his Sentence pronounc'd great Composure; and as soon as it was finish'd, retir'd, without Reply, to his Confinement on Shore, where a double Guard was set over him; but he was soon after remov'd on Board the *Monarque*, where he was confin'd under a Captain's Guard.

The following Letters were sent to the Secretaries Office, who transmitted them to the President of the Court Martial at *Portsmouth*. The first was wrote in *English* by the celebrated M. *Voltaire*, and directed to Admiral *Byng*. The other the Translation of a Letter in *French* from the Marshal D. *Richlieu*, and sent to M. *Voltaire*. But with what View they were wrote is not easy

to be conceived. Surely these Gentlemen must have very mean and unworthy Notions of *English* Equity and Justice, to suppose that his Judges would condemn him, unless on the Testimony of unexceptionable Evidence ; or that they were not as inclinable to acquit as to punish him. Or, rather, is it not a *French* Gasconade, to magnify the Bravery of their Fleet, and banter the *English* for their Folly and Temerity in pretending to cope with a Power so much their superior ? In whatever Light we view these Letters, we plainly discover the Impertinence and Insult of their Writers. If the *French* were really victorious, as the Marshal has the Front to affirm, how came they to quit the Field of Battle, and not return to see what was become of their Enemy ? Or, for what other Reason, than their Misbehaviour in the Engagement, did they break four of their Captains immediately on their Arrival at *Marseilles* ? But let the Reader judge for himself, after he has perused the two following Letters.

Clux delices pres de Geneve.

S I R,

T Hough I am almost unknown to you, I think it is my Duty to send you the Copy of the Letter which I have just received from the Marshal Duke of Richlieu : Honour, Humanity and Equity, order me to convey it into your Hands. This noble and unexpected Testimony from one of the most candid as well as the most generous of my Countrymen, makes

makes me presume your Judges will do you the same Justice.

I am with Respect, Sir, &c.

To the Hon.
J. BYNG, Esq;

VOLTAIRE.

SIR,

I Am very sensibly concerned for Admiral Byng; I do assure you whatever I have seen or heard of him does him Honour. After having done all that Man could reasonably expect from him, he ought not to be censured for suffering a Defeat. When two Commanders contend for Victory, though both are equally Men of Honour, yet one must necessarily be worsted, and there is nothing against Mr. Byng but his being worsted; for his whole Conduct was that of an able Seaman, and is justly worthy of Admiration. The Strength of the two Fleets was at least equal; the English had thirteen Ships, and we twelve much better furnished and much cleaner. Fortune that presides over all Battles, and especially those that are fought at Sea, was more favourable to us than to our Adversaries, by sending our Balls into their Ships with greater Execution. I am persuaded, and it is the general received Opinion, that if the English had obstinately continued the Engagement, their whole Fleet would have been destroyed.

In short, there can be no higher Act of Injustice than what is now attempted against Admiral Byng, and all Men of Honour, and all Gentlemen of the Army, are particularly interested in the Event.

RICHLIEU.

• I re-

I Received this original Letter from Marshal D. Richlieu, the 1st of January 1757, in Witness of which I have signed my Name,

VOLTAIRE.

Being willing to clear up every Difficulty that may occur in the whole Extent of Mr. Byng's Case, and as he and his Friends have complained, that Justice has been denied him, by being refused the Liberty of sending for a second List of Witnesses, about a Month after he had applied for and obtained the first; it may be proper to shew the Nature of his Request in his own Words, in his Letter to the Secretary of the Admiralty; together with some Remarks that have been made upon it.

GREENWICH-HOSPITAL, Oct. 17, 1756.

SIR,

I Have received your Letter of the 14th Instant, informing me that his Majesty's Ship Colchester, is on her Return Home with the Witnesses desired by my Letter of the 4th of August last, and cannot help expressing Surprise at their Lordships not having thought proper, sooner, nor even now to take Notice of my Letter, dated the 14th of September, wherein, in Answer to yours of the 9th, I gave farther explanatory Reasons for requesting and claiming necessary Evidences, a List of whom I sent with my Letter of the 6th of the same Month.

My Case is very sufficiently hard, if indulged with every legal Advantage; for I have too much Reason to believe my Prosecution is carried on by
Persons

Persons, too powerful for me to contend against, whose Influence must add great Weight to their Accusations against me. In such a Situation, their Lordships will forgive my insisting upon the Right of every common Subject, and that I may not be deprived of the Assistance of a single Witness that I think necessary for my Defence. It may perhaps be attended with Inconveniencies (as is alledged to put off my Trial;) but no Inconvenience can equal the Cruelty and Injustice in bringing a Man to his Trial upon Life and Death, who is denied the common Means of Defence; nor should their Lordships be much surprized that I made this Request no earlier than the 6th of September, for if they consider my Situation, when I gave in my first List under close Confinement, without the Opportunity of consulting Friends or Council, and almost ignorant of the Charge against me, they will rather wonder I was able at that Juncture, to do so much, than that I did no more.

If their Lordships had thought proper to curtail the List of Evidence, for any Reasons whatsoever, which I presume they have no Right to do; yet if my Charge regards my personal Conduct, surely they cannot with any Appearance of Justice or Impartiality deny me those Witnesses from the Ramillies, who were so near Eye-Witnesses to my Conduct: I cannot withdraw my Claim to them; and therefore again send you annexed to this, the List of Witnesses wherein those who were on Board the Ramillies are particularly distinguished.

I must also repeat again, that a Trial without the necessary Witnesses, cannot be deemed an Act of Justice,

Justice, but an Act of over-bearing Power, and, as such, protest against it.

It cannot be supposed, that a Person confined, oppressed and calumniated, as I am, can possibly be desirous of postponing his Trial; but I must continue to desire to insist upon what I have a natural and legal Right to, JUSTICE, and as an Essential to it, the Witnesses necessary to my Defence.

I must desire your Answer, signifying their Lordships Intentions, and am, Sir,

Your humble Servant,

J. B.

Upon which Letter, a Writer in the *Gentleman's Magazine* makes this Observation, too material, he says, to be omitted, as it is a sufficient Answer to the principal Grievance complained of by Mr. Byng and his Advocates, I mean, the Denial of the second List of Evidence, especially those *Witnesses from the Ramillies, who were so near Eye-Witnesses to his Conduct, which he declared could not be denied him with any Appearance of Justice or Impartiality, and to which he could not withdraw his Claim.* If after this, on the Arrival of the *Ramillies* at *Portsmouth*, during Mr. Byng's Trial, when the President of the Court Martial acquainted him, that he might call any Witnesses on board her, it appears, as I am assured, that he declined doing it, with what View can one imagine this Application was made, and what becomes of the Invectives founded on the Refusal?

As

Various are the Arguments that have been offered to vindicate the Admiral's Conduct on this memorable Occasion; and it must be allowed, they are very plausible. The Witnesses in general acquitted him of Delay, from his Departure from *St. Helen's* till he came before *Mabon*. His Precautions in sending three Frigates a-head to reconnoitre the Harbour, and his calling them off on the Appearance of the Enemy, seems founded on Reason. It must likewise be allowed, that his disembarking his Soldiers for the Reinforcement of the Garrison, before the Battle, would have been impolitick, as it would have weakened his Fleet, and made him less capable of encountering the Enemy. Nor is it less certain, that the few Land Forces he had on Board were insufficient to save the Citadel, much less the Island. All this is granted: But let it be observed too, that the Admiral will never be made to suffer for that which was not in his Power to perform; and indeed his Advocates have not so much as touched upon the principal Part of the Charge against him, and of which he was found Guilty; namely, that he did not do his utmost to relieve *St. Philip's* Castle; that during the Engagement, he did not do his utmost to take, seize, and destroy the Enemy's Ships; nor did assist his Majesty's Ships in the Action, as he ought to have done.

Now, though it might be prudent in the Admiral not to weaken his Fleet, by sending away his Soldiers and Marines, for Relief of the Garrison, before the Engagement, yet what hindered

G

him

him afterwards, when the *French* fled, and did not return to renew the Fight in four Days that he staid there. That a Descent was practicable, was sufficiently proved by Lord *Blakeney* and Mr. *Boyd*. But not a Word of this in his Defence.

That he did not do his utmost to take, seize, and destroy the Enemy's Ships, is proved by the concurring Evidence of most of the Captains in the Fleet, who almost unanimously agree, that if he had set up more Sail, he might as easily have gone down to the Enemy as did the Van. Why then did he not? Why did he throw his Sails a-back, and thereby stop his going down? Because, say his Advocates, he was then engaged with some *French* Ships. Yet Capt. *Young*, Capt. *Cornwall*, Capt. *Ward*, and others were of Opinions, that had the Admiral gone down with his Division, he would not only have prevented the Damage that was done the Van by the superior Fire of the Enemy, but in all Probability would have gained a complete Victory.

Nor did he assist his Majesty's Ships in Distress, as it was his Duty to have done. This was the Case of the *Intrepid*, who, had she not been relieved by Capt. *Cornwall*, must, in all Likelihood, have gone to the Bottom, or been taken by the Enemy; for no Signal was made by the Admiral, for removing her out of the Line, or for any other Ship to go to her Assistance.

From hence it appears, that the Condemnation of the Admiral was founded upon good Proof and sufficient Reasons. And though the Court acquitted

ted him of Cowardice and Disaffection, yet his Neglects were such a notorious Breach of the 12th Article of War, that it seemed not in their Power, unless they would shut their Eyes against the clearest Evidence, to pass any other Sentence upon him than what they did.

As many of our Readers may be unacquainted with the Signals made by the Admiral in an Engagement, as Directions for the rest of the Fleet, and as many of those Signals are mentioned in the foregoing Trial, the Design and Meaning of which is not commonly understood, we have here subjoin'd a List of those that are used on such Occasions, with their Explanations, the better to comprehend the Variety of Motions in that Action.

SIGNALS for managing a SEA-FIGHT.

WHEN the Admiral would have the Fleet formed in a Line of Battle, one ship a-head of another, he hoists a Flag at the Union Peak, and fires a Gun; and every Flag-ship does the like. But when they are to form a Line of Battle, one a-breast of another, he hoists a Pendant with the Union, &c. When he would have the Admiral of the White, or he that commands in the second Post, to tack, and endeavour to gain the Wind of the Enemy, he spreads a white Flag under the Flag at the main Head, and fires a Gun; and when he would have the Vice-Admiral of the Blue do so,

he doth the same with the blue Flag. If he would have Vice-Admiral of the Red do so, he spreads a red Flag from the Cap, on the Fore top-mast Head, downward on the Back-stay; if the Vice-Admiral of the Blue, he spreads a blue Flag, &c. and fires a Gun. If he would have the Rear-Admiral of the Red do so, he hoists a red Flag at the Flag staff, at the Mizzen-top-mast Head; if the Rear-Admiral of the White, a white Flag; if the Rear-Admiral of the Blue, blue Flag, and under it a Pendant of the same Colour, with a Gun. If he be to Leeward of the Fleet, or any part of it, and he would have them bear down upon his Wake or Grain; he hoists, a blue Flag at the Mizzen-peek, and fires a Gun. If he would be to Leeward of the Enemy and his Fleet, or any part of it be to Leeward of him; in order to bring these ships into the Line, he bears down with a blue Flag at the Mizzen-peek under the Union Flag (which is the Signal for Battle) and fires a Gun; and then those Ships, that are to Leeward of him, must endeavour to get into his Wake or Grain, according to their Station in the Line of Battle. When the Fleet is sailing before the Wind, and he would have him, who commands in the second Post, and the Ship of the Starboard-Quarter, to clap by the Wind, and come to the Starboard-Tack, he hoists a red Flag at the Mizzen-topmast Head; but a blue one, if he would have Ships of the Larboard-Quarter, come to the Larboard-Tack, with a Gun. If the Van are to tack first, he spreads his Union Flag
at

at the Flag-Staff, on the Fore-topmast Head, and fire a Gun, if the red Flag is not abroad; but if it be, then he lowers the Fore-top Sails a little; and the Union Flag is spread from the Cap of the Fore-topmast downwards; and every Flag Ship the same. If the Rear be to tack first, he hoists the Union Flag on the Flag-Staff, at the Mizentop-mast Head, and fires a Gun; and all the Flag Ships must do the same. If all the Flagships are to come into his Water or Grain, he then hoists a red Flag at his Mizen-Peck, and fires a Gun. If he would have him that commands in the second Post of his Squadron to make more Sail (tho' he himself shorten Sail) he hoists a white Flag on the Ensign-Staff. But if he that commands in the third Post, he hoists a blue Flag, and fires a Gun, and all the Flag Ships must make the same Signal. Whenever he hoists a Red Flag on the Flag-Staff at the Fore-top-mast-head, and fires a Gun, every Ship in the Fleet must use their utmost endeavours to engage the Enemy, in the Order prescribed them. When he hoists a white Flag at his Mizen-Peck, and fires a Gun, then all the small Frigates of his Squadron, that are not of the Line of Battle, are to come under the Stern. If the Fleet be sailing by a Wind in the Line of Battle, and the Admiral would have them brace their Head-Sails to the Mast, he hoists up a yellow Flag on the Flag-Staff, at the Mizentop-mast-head, and fires a Gun, which the Flag-Ships are to answer; then the Ships in the Rear must brace first. After this, if he would have them

them fall their Head-Sails, and stand on, he hoists a yellow Flag on the Flag-Staff on the Fore-top-mast Head, and fires a Gun; which the Flag-Ships must answer, and then the Ships in the Van must fall first, and stand on. If, when the Signal is made, the red Flag at the Fore-top-mast Head be abroad, he spreads the yellow Flag under the red. If the Fleets being near one another, the Admiral would have all the Ships tack together, the sooner to lie in a posture to attack the Enemy, he hoists an Union Flag on the Flag-Staves at the Fore and Mizzen-top-mast Head, and fires a Gun; and all the Flag-Ships are to do the same. The Fleet being in a Line of Battle, if he would have the Ship that leads the Van, hoist, lower, set, or hawl up any of his Sails, he spreads a yellow Flag, under that at his Main-top-mast Head, and fires a Gun; which Signal the Flag-Ships are to answer; and then the Admiral will hoist, lower, set, or hawl up the Sail, which he would have the Ship that leads the Van, do; which is to be answer'd by the Flag-Ships of the Fleet. When the Enemies run, and he would have the whole Fleet follow, he makes all the Sail he can after them himself, takes down the Signal for the Line of Battle, and fires two Guns out of his Fore-Chase, which the Flag-Ships answer, and then every Ship is to endeavour to come up with, and board the Enemy. When he would have the Chase given over, he hoists a white Flag at the Fore-top-mast Head, and fires a Gun. If he would have the Red Squadron draw

draw into a Line of Battle, one a-breast of another, he puts abroad a Flag, striped red and white, on the Flag-Staff at the Main-top-mast Head, with a Pendant under it, and fires a Gun. If the White, or second Squadron, is to do so, the Flag is striped red, white and blue. If the Blue, or third Squadron, is to do so, the Flag is a *Genoese* Ensign and Pendant: But if they are to draw into a Line of Battle, one a-head of another, the same Signals are made without a Pendant. If they are to draw into a Line, one a-stern of another, with a large Wind, and he would have the Leaders go with the Star-board Tacks, a-board by the Wind he hoists, a red and white Flag at the Mizen-Peck, and fires a Gun; but if they should go with the Larboard Tacks a-board, by the Wind, he hoists a *Genoese* Flag at the same Place, which Signals, like others, are answered by the Flag-Ships.

F I N I S.



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